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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-195855

DATE: April 01, 1980

MATTER OF: [Service credit in the computation of retired pay] - Uniformed Services University of Health Sciences

DIGEST: A member participating in the program at the Uniformed Services University of Health Sciences whose enrollment is terminated prior to graduation but who continues on active duty in another capacity is entitled to credit for that service in determining years of service for retired pay multiplier under 10 U.S.C. § 1405.

The Assistant Secretary of Defense has requested our decision as to whether the military service of a member participating in the program at the Uniformed Services University of Health Sciences (USUHS) whose enrollment is terminated prior to graduation is creditable in determining years of service for retired pay multiplier under 10 U.S.C. § 1405. The answer is yes.

A factual situation and a discussion of the question is presented in Department of Defense Military Pay and Allowance Committee Action number 546, enclosed with the Assistant Secretary's letter.

A Regular officer of the Army was commissioned on June 5, 1968. While serving in the grade of captain, he was discharged from that appointment on October 11, 1976, to accept an appointment as a second lieutenant in the Air Force Reserve, Medical Service Corps, and was ordered to active duty as a USUHS student. He was separated from USUHS on November 27, 1978. On January 11, 1979, his appointment as a second lieutenant, USAFR (MSC), was vacated and he was reappointed as captain, USAFR, line officer, on January 12, 1979.

Students at the Health Services University are officers of a uniformed service and serve on active duty in pay grade O-1 with full pay and allowances of that grade. Certain service credit exclusions specified in 10 U.S.C. § 2126 (1976) are applicable to students at the University. See 10 U.S.C. § 2114(b) (1976).

Section 2126 of title 10, United States Code, provides that service of a member enrolled in the program shall not be counted

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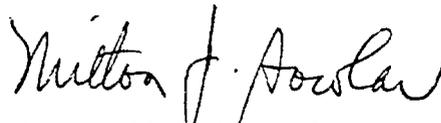
B-195855

in determining eligibility for retirement other than by reason of physical disability incurred while on active duty as a member of the program. It also provides that such service is not creditable under section 205, other than subsections (a)(7) and (8) of title 37.

Since specific reference to credit for such service for the purposes of computing retired pay under 10 U.S.C. § 1405 is not made, the question has been presented for decision to this Office.

Section 1405 of title 10, United States Code, provides what service is creditable for the purpose of computing retired pay under certain listed statutes. Subsection 1405(2) authorizes the crediting of service a member is entitled to be credited with under 37 U.S.C. § 205(a)(7) and (8). Thus, officers who complete the program and become medical or dental officers are entitled to credit for the years of service in the program in the computation of their basic pay and in the computation of retired pay, since credit for such service is not precluded by 10 U.S.C. § 2126.

Furthermore, subsection 1405(1) of title 10, United States Code, provides that years of service include "years of active service." "Active service" is defined in 10 U.S.C. § 101(24) as "service on active duty." Subsection 2114(b) of title 10, provides that students "shall serve on active duty in pay grade O-1 with full pay and allowances of that grade * * *." Thus, a member may be credited with the years of service in the USUHS program, for the purposes of 10 U.S.C. § 1405, regardless of whether or not the member completes the program.



For the Comptroller General
of the United States